

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4841 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

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PARDEEP NAVINCHANDRA TRIVEDI

Versus

GUJARAT SECONDARY EDUCATION BOARD

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Appearance:

MS JAYSHREE C BHATT for Petitioner

MR AD OZA for Respondent No. 1

Mr.D.P.Modi working as Teacher is present before  
this Court as a representative of respondent No.2.

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CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 15/07/1999

ORAL JUDGEMENT

The petitioner has been studying in Saraswati High School, Dhundhiyawadi, Palanpur. In the session 1998-99 he was studying as a repeater and he has failed only in one subject in the Examination, which was held by the Board in March 1999. For such a student, who had appeared in March 1999 Examination, in normal course the

Examinations were to be held in the month of October. However, that Scheme of holding examination in the month of October was abolished and instead the Board had decided to hold supplementary Examination in the month of July so that such students do not stand to lose one academic year because even if they succeed in October Examination by the time the result of the October Examinations are declared, the admission in higher classes are already over. Mr. Modi, who is present before this Court on behalf of respondent No.2, has produced a letter dt.13.7.99 signed by the Principal and addressed to the Chief Justice. It may be straightaway observed that such correspondence by the Officers or litigating parties with the Chief Justice is not permissible. However, they may not be knowing the exact procedure and, therefore, I do not feel inclined to proceed against the Principal with this objectionable course of action adopted by him. According to the contents of this letter dt.13.7.99, the stand of the Principal is that Gujarat State Education Department and S.S.C. Board are responsible and not the Principal and the Principal says that he did not allow the petitioner to appear in the supplementary examinations which are to commence on 17.7.99 and did not entertain the petitioner's application in terms of the Regulations of the Board and the instructions of the Government.

Mr. A.D.Oza has filed an affidavit in reply dt.15.7.99 alongwith a document dt.21.6.99, which had been issued by the Gujarat Secondary Education Board Examination Department, Vadodara and copy of this press note dt.21.6.99 had been sent to all concerned including all District Education Officers and this press note has also been widely published and copies had also been sent to the Director of the T.V.Station of Ahmedabad and Director of All India Radio, Ahmedabad etc. Mr. Oza has very candidly submitted that according to the Board, the petitioner could certainly appear in this supplementary examination, which is to commence on 17.7.99 and the petitioner has failed only in one subject i.e. mathematics in the Examination which was held in March 1999 and all such students, who had failed in one of the papers only in March 1999 examination, are eligible to appear in the supplementary examination to be held in July 1999. Mr.Oza has pointed out that there is no ban for those students who had studied as repeaters. Forms were required to be filed by 25.6.99. The results of the March 1999 examination had been declared on 7.6.99 and the Schools had been informed by the Board to send the list of such candidates, who had failed only in one subject in March, 1999 examination and even before this

Court the Board has taken a categorical stand that there is no ban against the repeaters. Respondent No.2 did not entertain the petitioner's application despite such clear instructions by the Board and it is given out by Mr. Modi that the School did not know about such instructions having been issued by the Board and, therefore, the petitioner being a repeater was not entertained.

Without going into the controversy as to whether the School had received the copy of such instructions or not, the fact remains that the Gujarat Secondary Education Board finds the petitioner to be eligible to appear in the supplementary examination to be held in July 1999, whereas the petitioner's candidature was not entertained on account of some communication gap as regard to the instructions, as issued by the Board, a student cannot be made to suffer and, therefore, even if the last date for submitting the applications has passed (for no fault on the part of the petitioner - student), it is directed that the petitioner's application for supplementary examination of July 1999 for 10th standard shall be entertained by the concerned School with late fee and the petitioner's form shall be sent by the concerned School with a special messenger at the cost of the petitioner directly to the examination cell of the Gujarat Secondary Education Board at Vadodara so as to ensure that this Application form reaches the Board Office at Vadodara by tomorrow as early as possible preferably before lunch break. On receipt of such application form, the same shall be entertained immediately. The Board Authorities at Vadodara shall take all necessary steps to ensure that the petitioner appears in this Examination on 17.7.99. This Special Civil Application succeeds and is allowed with the directions, as above. Rule is made absolute in the terms as aforesaid. No order as to costs. Direct service is permitted today.